THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18151 of 1998

Dated:06.06.2007

Between

1.M.Venkata Rao and another.

.....Petitioner

and

1. The Commissioner of Cooperation & Registrar of Co-operative Societies, Andhra Pradesh, Hyderabad and others.

...Respondents

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18151 of 1998

ORDER:

This writ petition is filed seeking to declare the action of the respondents 3 and 4 in issuing notice dated 19.6.98 informing the petitioners that they have to retire from service on attaining the age of superannuation i.e, 58 years of service in the Bank by 30.6.1998 as arbitrary and illegal and against the principles of natural justice.

It is the grievance of the petitioners that they are entitled to continue in service till they attain the age of 60 years, whereas the respondents under the impugned notice sought them to retire on attaining the age of 58 years.

While admitting the writ petition, no stay

was granted by this court.

A detailed counter affidavit has been filed by the respondents 3 and 4 denying the allegations made by the petitioners and it is asserted that even according to the petitioners, they fall within the VI category, which is not a last grade service. The superannuation age of Class VI employee is only 58 years, but not 60 years as per Rule 28 (6) of the Andhra Pradesh Co-operative Societies Rules, 1964 (for short 'the Rules'). In fact, there was a memorandum of settlement under Section 18 (1) of the Industrial Disputes Act, 1947 whereunder the employees union agreed for adopting the age of superannuation for Class VI employees as 58 years. Even otherwise, as per Rule 28 (6) of the Rules, VI Class employees have to retire on attaining the age of 58 years.

Respondents 1 and 2 also filed a detailed counter wherein it is stated that they were not concerned with any of the actions and were not

parties at any time. Rule 28 (6) of the Rules does not prescribe which post in a Cooperative Society comes under last grade. The categorization is left to the employer and the employees in case of any agreement or settlement entered into by them. The Rule 28 (6) reads as under:

> *"Notwithstanding anything contained in the Bye-laws/special bye-laws service regulations or common cadre regulations of the co-operative societies every paid servant and officer of the society other than those in the last grade service shall retire from service on the after noon of the last date of the month on which he attains the age of 58 years.*

Rule 28 (6) of the Rules is subject to any settlement entered into between the parties and any settlement entered into between the parties is binding on them. Admittedly, a settlement under Section 18 (1) of the Industrial Disputes Act, 1947 was entered into between the Co-operative Urban Bank Limited,

Salur and the Workmen of the Bank represented by Vizianagaram District Co-operative Urban Bank Employees' Association, Vizianagaram dated 3rd April,1985, whereunder the pay scales of category VI employees were included as 350-10-460-15-550. There is no dispute that the petitioners were getting the same salary, therefore, they are treated as VI category employees. As such, as per rule 28 (6) of the Rules, the petitioners have to retire on attaining the age of superannuation of 58 years and not at 60 years. Rule 28 (6) of the Rules and the settlement reached between the parties on 9th November, 1994 under Section 18(1) of the Industrial Disputes Act,1947 would indicate that the petitioners are VI category employees. Therefore, they are not entitled for the age of superannuation as 60 years. Writ petition is devoid of merits and is liable to be dismissed.

Writ petition is dismissed accordingly.

6.6.2007

rkk